

# **EXHIBIT 2**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

HACHETTE BOOK GROUP, INC., )  
HARPERCOLLINS PUBLISHERS LLC, JOHN )  
WILEY & SONS, INC., and PENGUIN )  
RANDOM HOUSE LLC )  
) Case No.  
Plaintiffs, ) 1:20-CV-04160-JGK  
)  
v. )  
)  
)  
INTERNET ARCHIVE and DOES 1 through  
5, inclusive,  
Defendants.

---

Videotaped Rule 30(b)(1) and Rule 30(b)(6)  
Deposition OF ANDREA ROGINA MILLS  
Held via Veritext Virtual  
Thursday, October 14, 2021  
10:30 a.m. EST

Reported by:  
Carissa Stabbler, Registered Professional Reporter

1 Videotaped Rule 30(b)(1) and Rule 30(b)(6)  
2 Deposition of ANDREA ROGINA MILLS was taken on  
3 October 14, 2021, commencing at 10:30 a.m. EST,  
4 held via Veritext Virtual, before Carissa Stabbler,  
5 Registered Professional Reporter.

6  
7 COUNSEL APPEARING:

8  
9 For the Plaintiffs:

10 OPPENHEIM + ZEBRAK, LLP  
11 BY: Scott A. Zebrak, Esq.,  
12 Rebecca Weissman, Esq.  
13 4530 Wisconsin Avenue, NW, 5th Floor  
14 Washington, DC 20016  
(202) 480-2999  
scott@oandzlaw.com  
rebecca@oandzlaw.com

15 DAVIS WRIGHT TREMAINE LLP  
16 BY: Linda Steinman, Esq.,  
17 1251 Avenue of the Americas, 21st Floor  
18 New York, NY 10020  
(212) 489-8230  
lindasteinman@dwt.com

19 For the Defendant:

20 DURIE TANGRI LLP  
21 BY: Joseph C. Gratz, Esq.,  
22 Jessica E. Lanier, Esq.,  
23 Annie Lee, Esq.  
24 217 Leidesdorff Street  
25 San Francisco, CA 94111  
(415) 362-6666  
jgratz@durietangri.com  
jlanier@durietangri.com  
alee@durietangri.com  
ALSO PRESENT: Steve Troncone, Videographer



1 Q. Right. And so my question to you  
2 is are you aware of any policy or procedure that  
3 has been in place at Internet Archive to inspect  
4 the in-copyright physical book to determine if it's  
5 a lawfully made copy as opposed to a counterfeit?

6 MS. LANIER: Objection. Vague. Calls  
7 for a legal conclusion.

8 THE WITNESS: So I -- we do -- Internet  
9 Archive doesn't have a policy document for the  
10 Scribe operator to look at a physical book and make  
11 a determination as to whether it's a legal copy.

12 But for our modern digitization  
13 activities, the operator either scans or inputs  
14 ISBN, that is, if it's printed on a book, and there  
15 is a check that is done as to whether that is a  
16 valid ISBN. If it's not a valid ISBN, if the check  
17 is not accurate, the book is rejected, and we don't  
18 scan it.

19 BY MR. ZEBRAK:

20 Q. So if a book is counterfeit and  
21 it -- the counterfeiter happened to put the wrong  
22 ISBN on the book, the book would be rejected rather  
23 than scanned; correct?

24 MS. LANIER: Objection. Vague.

25 THE WITNESS: I think there are --

1 maybe I have two answers to that. If it's the --  
2 that is a basis for us to reject a book. If the  
3 scanned ISBN gleans an incorrect -- non-matching  
4 metadata, we don't proceed. If it's actually  
5 determined to be an invalid ISBN, that's another  
6 basis for rejection.

7 BY MR. ZEBRAK:

8 Q. Okay. So Internet Archive has  
9 various reasons that it may reject a book for  
10 scanning; correct?

11 A. That's right, yeah. We have a --  
12 there's -- yes. It could be physical. It could be  
13 metadata. It could be invalid ISBN. There are  
14 other reasons.

15 Q. But you're not aware of Internet  
16 Archive having a policy or procedure to assess  
17 whether a book is counterfeit or not; correct?

18 MS. LANIER: Objection. Vague.

19 THE WITNESS: I'm not aware of a  
20 process specifically targeting counterfeit books.

21 BY MR. ZEBRAK:

22 Q. Right. So with respect to the  
23 processes that you're aware of with respect to  
24 Internet Archive's receipt and scanning of  
25 in-copyright books, you're not aware of any

1 BY MR. ZEBRAK:

2 Q. Ms. Rossi -- strike that. I think  
3 we were just talking about the name Alexa [sic]  
4 Rossi, and now her name is in my head. Let's start  
5 again.

6 Ms. Mills, when modern in-copyrighted  
7 books are received at an Internet Archive  
8 digitization center, is there an API that the  
9 digitization staff member uses to assess whether  
10 that book is a book that Internet Archive wants to  
11 scan?

12 A. Yes, there is an API.

13 Q. And what's that called?

14 A. It's called "Do We Want It."

15 Q. The acronym DWWI; is that right?

16 A. That's right.

17 Q. And do you know other than -- oh,  
18 sorry. Do you know what determines within that API  
19 whether Internet Archive wants to scan that book?

20 A. So my understanding of how that  
21 API works -- not an API expert, but it -- the API,  
22 when an operator either keys in an ISBN, scans a  
23 bar code or -- actually, those are the two  
24 scenarios, checks to see if we, Internet Archive,  
25 has digitized that particular ISBN previously or

1 related ISBNs to that book, and it also checks if  
2 that ISBN is on a control list that we do not want  
3 to scan.

4 Q. What do you mean when you say the  
5 DWWI app considers whether the ISBN is not  
6 something that the archive has a scan of yet or  
7 whether it's a related ISBN? What do you mean by  
8 the term "related" in that context?

9 A. So in some cases, the digital  
10 catalog record that we have for a particular item  
11 has both ISBN 10 and an ISBN 13, for example. So  
12 if we're presented with the ISBN 10, we're also  
13 checking to see if we've scanned ISBN 13.

14 The other scenario with related ISBNs  
15 is -- as I understand in some cases, it's --  
16 there's a Canadian or international ISBN in the  
17 U.S. ISBN.

18 So we keep multiple ISBN values in the  
19 metadata for a book for some items so that if it's  
20 any one of those versions of the ISBN, we -- it's  
21 another indicator that we -- if we have a hit, we  
22 don't scan that book. It doesn't need to be the  
23 absolute exact ISBN for that book to be flagged as  
24 do not scan this book.

25 Q. So are you familiar with whether a

CERTIFICATE OF REPORTER

CANADA )

PROVINCE OF ONTARIO )

I, Carissa Stabbler, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me;

That the testimony of said witness was taken by me in shorthand, using Computer-Aided Realtime, to the best of my ability and thereafter reduced to written format under my direction;

That I am neither counsel for, related to, nor employed by any of the parties to the action in which the deposition was taken, and further that I am not related or any employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



Carissa Stabbler, RPR

Court Reporter